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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/422,046	10/20/1999	STEPHEN J. BROWN	014030.0110N13US /	5000

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EXAMINER

MORGAN, ROBERT W

ART UNIT PAPER NUMBER

3626

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/422,046	<b>Applicant(s)</b> BROWN, STEPHEN J.	
	<b>Examiner</b> Robert W. Morgan	<b>Art Unit</b> 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 70, 71, 76, 77, 110-123, 126-145, 148-166, 169-186 and 189 is/are pending in the application.
- 4a) Of the above claim(s) 223-242 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/04, 5/27/04, 6/1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I including claims 70, 71, 76, 77, 110-123, 126-146, 148-166, 169-186 and 189 in the reply filed on 7/31/06 is acknowledged. The traversal is on the ground(s) that Examiner does appear to have met the burden of showing a *prima facie* case as why there would be a serious burden to search and examine the entire application or provide reasons and/or example to support his conclusion. This is not found persuasive because Invention I discloses a network of remotely located patient sites using data management units to communication information to the remotely located health care professional computer and Invention II discloses a patient management system using sensor data that is received and accessed using encryption and decryption by a clinician. As such, Invention II would require a different search for examination from that of Invention I, therefore creating a serious and undue burden for the Office.

The requirement is still deemed proper and is therefore made FINAL.

### ***Notice to Applicant***

2. In response filed 7/31/06, the following has occurred: Claims 124-125, 146-147, 167-168, 187-188 and 223-242 have been withdrawn and claims 1-69, 72-75, 78-109 and 190-222 are canceled. Now claims 70, 71, 76, 77, 110-123, 126-145, 148-166, 169-186 and 189 are presented for examination.

### ***Information Disclosure Statement***

3. The information disclosure filed 3/29/04, 5/27/04 and 6/1/04 have been acknowledge and entered in the application.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 70-71, 77, 110, 112-114, 116, 117, 120, 123, 126, 127, 132-134, 137, 138, 139, 140, 142, 145, 148, 149, 150, 151, 153, 155-156, 158, 161, 163, 164, 166, 169, 170, 173, 175-176, 178, 181, 183, 184, 186 and 189 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,803,625 to Fu et al. and U.S. Patent No. 4,838,275 to Lee in view of U.S. Patent No. 5,390,238 to Kirk et al.

As to claims 70, 117, 127, 138, 149, 150 and 170, Fu discloses a networked health-monitoring system (see Fig. 1), comprising:

- (i) a plurality of remote patient sites (see Fig. 1, unit 60), each site including
  - at least one display (i.e. unit 68)(col. 5, lines 53-58);
  - a data management unit configured to facilitate collection of patient health related data (i.e., event table and CPU 64) (col. 10, lines 1-14 and lines 28-61);
  - at least one memory (i.e. unit 80)(see Fig. 2); and
  - stored program instructions for generating health-monitoring related information on the display (i.e. display unit 68 and software of the home unit) (col. 5, lines 56-57, col. 8, line 17 and col. 12, lines 1-24)
- (ii) at least one central server connectable for communication with the data management unit at the patient sites (see Fig. 1).

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Fu does not explicitly disclose

(iii) at least one health care professional computer remotely located from and configured for signal communication with the central server, wherein the system is configured to

allow a health care professional to cause information to be transmitted to at least one patient; and

display to that patient at least one message at least some of the information caused to be transmitted by the healthcare professional.

Lee discloses at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites (i.e. unit 118a) (see Fig. 1, col. 11, lines 54-56 and col. 13, lines 42-47).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include at least one health care professional computer remotely located from and configured for signal communication with the central server to receive at least one report based on the patient health-related data collected at the remote patient sites as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (Lee: col. 5, lines 15-38).

Fu and Lee do not explicitly disclose display to that patient at least one message at least some of the information caused to be transmitted by the healthcare professional.

Kirk teaches a health support system including a remotely located computer facility including the at least one central server wherein hardware and software of the central server

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automatically communicates with the data management units and at least one health care professional computer (col. 3, lines 3-11, lines 20-42). In addition, Kirk teaches that the central server can report results of the analysis of patient (32, Fig. 3) status to a doctor (24, Fig. 2), care provider (20, Fig. 2) or local monitoring services (12, Fig. 1) (see: column 5, lines 40-47). Furthermore, Kirk teach that the health support unit (30, Fig. 3) interacts with the local central server (38, Fig. 3) receive medication and program schedule updates (see: column 5, lines 22-27 and column 3, lines 3-11). The Examiner considers the medication and program schedule updates (messages) to be sent by the doctor or pharmacist computer to the local server and then to the patient.

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the aforementioned limitation for the motivation of utilizing a health care support system which economically provides medication control, wellness checking and patient data accumulation and reporting capability (Kirk: col. 1, lines 53-60).

As to Claims 117, 138 and 171, Fu does not explicitly disclose the system of claim 34, wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received.

However, Lee discloses wherein the system is configured to allow a health care professional to select which of a plurality of standardized reports is received (col. 13, lines 5-15). In addition, Lee teaches that a report is standardized (col. 17, lines 20-40). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include the system configured to allow a health care professional to select which of a plurality of standardized reports is received as disclosed by Lee within Fu for the motivation of providing

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detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As per claim 140 and 173, Fu does not explicitly disclose the claimed displaying at least one of a test, statistical information and trend information.

However, Lee discloses wherein the report includes displayed formatted statistical information (col. 13, lines 12-17). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the report includes displayed formatted statistical information as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As per claims 169 and 189, Fu does not explicitly disclose the claimed user of the remotely located computer is a healthcare professional.

However, Lee discloses wherein the message is from the health care professional computer (col. 16, lines 40-43). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include messages from the health care professional computer as disclosed by Lee within Fu for the motivation of providing detailed home medical surveillance of patients with a minimal amount of trained technical personnel and minimal training and participation by the patient (col. 5, lines 15-38).

As to claims 71, 77, 110, 112-114, 116, 120, 123, 126, 132-134, 137, 139, 142, 145, 148, 151, 153, 155-156, 158, 161, 163, 164, 166, 175-176, 178, 181, 183, 184 and 186, they are similar in scope to claims 70, 117, 127, 138, 140, 149, 150, 169, 170-171, 173 and 189 are rejected on the same basis.

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6. Claim 76, 136, 159 and 179 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 34 and 127 above, and further in view of Beckers, Pat. No. 5,019,974.

As to Claim 76, Fu and Lee do not explicitly the claimed stored program instructions further enable the pictorial health related information.

However, Beckers discloses wherein the handheld device is capable of displaying pictorial health-monitoring related information (see Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the handheld device is capable of displaying pictorial health-monitoring related information as disclosed by Beckers within Fu, Lee, and Kirk for the motivation of providing a patient with an individually tailored program of treatment (see: Beckers: col. 1, lines 7-14)

As to claims 136, 159 and 179, they are similar in scope to claim 76 are rejected on the same basis.

7. Claims 165 and 185 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu and Kirk as applied to claims 150 and 170 above, and further in view of Dessertine, Pat. No. 5,016,172.

As to claims 165 and 185, Fu and Kirk do not explicitly the claimed stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data.

However, Dessertine discloses wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a



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portion of the patient data (i.e. patient display unit 5)(col. 3, lines 61-64 and col. 4, lines 29-46 and 52-60). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the stored programming instructions further enable the patient data receiver to present on the display a graphic representation of at least a portion of the patient data as disclosed by Dessertine within Fu and Kirk for the motivation of monitoring patient medication compliance and other patient characteristics remotely (col. 1, line 53 – col. 2, line 7).

8. Claims 111, 118, 121, 122, 130, 143, 144, 152, 157, 162, 172, 177 and 182 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 76, 110 and 116 above, and further in view of Fujimoto, Pat. No. 5,339,821.

As to Claims 111, Fu, Lee, and Kirk do not explicitly disclose the claimed system is configured to cause the presentation of at least one report on the display at a remote patient site.

However, Fujimoto discloses wherein the system is configured to cause the presentation of at least one report on the display at a remote patient (col. 4, lines 48-56). It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the system is configured to cause the presentation of at least one report on the display at a remote patient site as disclosed by Fujimoto within Fu and Lee for the motivation of providing a medical system and apparatus which permits patients to check or measure the condition of a disease at home (col. 1, line 66 – col. 2, line 5).

As to claims 118, 121, 122, 130, 143, 144, 152, 157, 162, 172, 177 and 182, they are similar in scope to claim 111 and are rejected on the same basis.

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9. Claims 119, 131, 141, 154 and 174 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee and Kirk as applied to claims 116 above, and further in view of Examiner's use of Official Notice.

As to Claim 119, Fu, Lee, and Kirk do not explicitly disclose the claimed healthcare professional computer receives the report after an associated healthcare professional is identified as an authorized user by as an authorization code.

However, the Examiner takes official notice that it was well known in the computer arts to use personal identification numbers (pin) to authorize users to access systems, programs and stored data on computers. The motivation for using pin numbers was to grant access to data or the computer system to authorized users only, particularly sensitive data or information such as patient medical data. It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the healthcare professional computer receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user within Fu, Lee and Kirk for the motivation stated above.

As to claims 131, 141, 154 and 174, they are similar in scope to claim 119 and are rejected on the same basis.

10. Claims 135, 160 and 180 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fu, Lee, and Kirk as applied to claims 127 above, and further in view of Examiner's use of Official Notice.

As to Claim 135, Fu, Lee, and Kirk do not explicitly disclose the system of claim 40, wherein the memory is a program cartridge.

However, the Examiner takes official notice that it was well known in the computer arts to use program cartridges to program handheld devices. The motivation was to provide a simple and inexpensive means for providing computer programs that are popular or in demand by a number of users. . It would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to include wherein the memory is a program cartridge for the motivation stated above.

As to claims 160 and 180, they are similar in scope to claim 135 and are rejected on the same basis.

### ***Response to Arguments***

11. Applicant's arguments filed 7/31/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the responses dated 7/31/06.

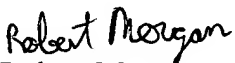
(A) In response to Applicant's argument, it is respectfully submitted that the Examiner has applied new prior art to the claims 70, 71, 76, 77, 110-123, 126-145, 148-166, 169-186 and 189 at the present time. As such, Applicant's remarks with regard to the application of Fu, Kirk and Dessertine to the amended and new claims are moot in light of the inclusion of the teachings of Lee, Beckers and Fujimoto, addressed in the above Office Action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is (571) 272-6773. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Robert Morgan  
Patent Examiner  
Art Unit 3626